

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

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75-1042

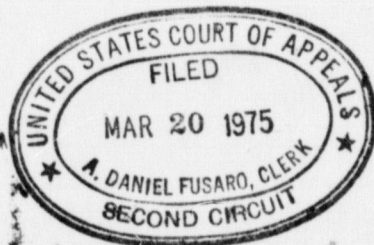
To be argued by
JONATHAN J. SILBERMANN

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----X
:
:
UNITED STATES OF AMERICA, :
:
Appellee, :
:
-against- : Docket No. 75-1042
:
JOSE KENNETH PENERANDA, :
:
Appellant. :
:
-----X

APPENDIX TO APPELLANT'S BRIEF

ON APPEAL FROM A JUDGMENT
OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK



WILLIAM J. GALLAGHER, ESQ.,
THE LEGAL AID SOCIETY,
Attorney for Appellant
FEDERAL DEFENDER SERVICES UNIT
509 United States Court House
Foley Square
New York, New York 10007
(212) 732-2971

JONATHAN J. SILBERMANN,
Of Counsel

PAGINATION AS IN ORIGINAL COPY

JUDGE STEWART

73 CRIM. 751

D. C. Form No. 100 Rev.

[illegible]

| (07) | STATISTICAL RECORD | COSTS | DATE | NAME OR RECEIPT NO. | REC. | DISB. |
|------|--|------------|---------|---------------------|------|-------|
| | J.S. 2 mailed | Clerk | 4/27/74 | 123/74 | 5 | 1 - |
| | J.S. 3 mailed | Marshal | | | | |
| | Violation | Docket fee | | | | |
| | Title 21 | | | | | |
| | Sec. 173, 174, 846 & 963 | | | | | |
| | Conspiracy to import and distribute Cocaine. | | | | | |
| | (One Count) | | | | | |

| DATE | PROCEEDINGS |
|---------|--|
| 8-3-73 | Filed Indictment Ordered Sealed. Ward, J. Bench Warrants ordered. Bench Warrants issued. |
| 8-28-73 | Indictment ordered unsealed. Wyatt, J. Case assigned to Judge Stewart for all purposes. (Related to 73Cr685) Wyatt, J. |
| 9-4-73 | MENDOSA- Filed defts. financial affidavit. |
| 8-28-73 | MANUEL ABDO CHACON- Filed Warrent for arrest of defendant with copy of indictment, affdvt. of Jorge Baro, affdvt. of Gerald A. Feffer attached. |
| 9-10-73 | JAIME MENDOZA-Filed Cja appoint. of counsel, Robert Mitchell, 51 Chambers St., N.Y. 10007. |

| DATE | PROCEEDINGS |
|-----------|---|
| 1 | JAMIE MENDOZA |
| 2 | JORGE SARAVIA |
| ✓ 3 | JOSE KENNETH, PENARANDA 1-23-75 |
| ✓ 4 | JORGE BARO 1/29/75 |
| 5 | SERGIO MACHIN |
| ✓ 6 | ALBERTO LOPEZ- a/k/a El Viejo ✓ 7-10-74 7-10-74 |
| 7 | ENRIQUE BARRERA- a/k/a Manolo |
| 8 | MANUEL ABDO CHAGON-a/k/a Manuel Garcia a/k/a Manolito |
| 9 | GILBERT BORENSZTEJN- a/k/a El Gordo |
| 10 | MILTON GRIJALVA |
| ✓ 11 | RAFAEL LIRA 11-26-74 True Name Rafael Mellafe |
| 12 | JOSE ALHAMBRA- a/k/a Pepe |
| 13 | JOHN DOE- a/k/a Rolando |
| 14 | JOHN DOE- a/k/a Christian, a/k/a El Flaco. |
| 15 | JOHN DOE- a/k/a El Chino |
| 16 | JOHN DOE- a/k/a Gonzalez |
| 17 | JOHN DOE- a/k/a Roberto |
| ----- | |
| Sep-10-73 | ALL DEFENDANTS- Court directs entry of not guilty plea - referred to Judge Stewart.-- Duffy, J. |
| Oct-5-73 | MENDOZA- Filed the following papers received from S.D. of Florida: Order of removal and Magistrates papers including appearance bond in the sum of \$50,000. PPB |
| Oct-12-73 | Filed Governments notice of readiness for trial. |
| Oct-29-73 | MENDOZA--Filed warrant for arrest of said deft. and marshal's return. Executed on Aug.10,1973. |
| Nov.19-73 | MENDOZA { BARO SARAVIA } --Filed govts. notice of readiness for trial. |
| Nov.19-73 | BARRERA { BORNSTEGN } --Filed govts. notice of readiness for trial. |
| Nov.21-73 | BARRERA--Filed govt's. W/H/C to produce said deft. on Nov.21,1973 at 10:30am for a pre trial conference(unexecuted). (unsigned by Clerk) |
| Nov.21-73 | Filed affdt. of Jeffrey Harris(govt.) re: above writ for deft. Barrerra. |

DATE

PROCEEDINGS

Nov. 29-73 E. BARRERA--Filed govt's. affdt. (by Bancroft Littlefield, jr.) for a W/H/C. Writ issued. ret. Dec. 5, 1973.

Dec. 10-73 Filed the following papers submitted by Magistrate Raby--Docket Entry Sheets(a) Magistrate's Warrants of Arrest, Disposition Sheet, Appearance Bond Jorge Saravia, in the sum of \$100,000.00 and Temporary Commitments

Feb. 4-74 BARRERA - Filed Affidavit for Writ of Habeas Corpus ad Prosequendum.

Feb. 6-74 BARRERA - Filed true copy of Writ issued - Clerk.

Feb. 6-74 BARRERA - Filed Marshal's return -- writ returned unexecuted. Deft. placed at confinement Atlanta, Ga. - New Writ to issue.

Feb. 7-74 BARRERA - Filed Affidavit for Writ of Habeas Corpus Ad Prosequendum

Feb. 25-74 BARRERA - Filed Affidavit for Writ of Habeas Corpus AD Prosequendum

Mar. 5-74 ALBERTO LOPEZ - Filed Notice of Motion, for an Order dismissing the Indictment and reviewing bail conditions etc.

Feb. 22-74 ENRIQUE BARRERA - Filed Marshal's return --Writ returned unexecuted Prisoner in hospital U.S.P. Atlanta, Ga.

Mar. 12-74 ENRIQUE BARRERA - Filed Motion to Dismiss - For failure to prosecute for double jeopardy and for Severance and Immediate Trial.

3-12-74 Filed Attorney's Amended Affirmation

Apr. 5-74 ENRIQUE BARRERA--Filed defts. affdt. and notice of motion for an order of dismissal of indictment, etc. as indicated.

4-16-74 Filed for Deft. Gilbert Bornsztejn - Memorandum in support of motions for pre-trial Relief.

4-16-74 GILBERT BORNSTZEJN - Filed Notice of Motion for Dismissal of Indictment, Severance, Bill of Particulars & Discovery, Immediate Trial, returnable 4/22/74 at 4:00 P.M.

4-25-74 Filed Government Affidavit and Memorandum of Law in Response to Defendants pre-trial Motions.

6-6-74 ENRIQUE BERRERA - Filed Supplemental Demand for a Bill of Particulars.

6-10-74 JORGE SARAVIA - Filed waiver of constitutional rights.

6-10-74 JOSE KENNETH PENARANDA - Filed Notice of Motion returnable 6/13/74 at 10AM for an order dismissing the Indictment.

6-11-74 ALBERTO LOPEZ - Filed Waiver of Constitutional Rights

6-10-74 SARAVIA (atty present) withdraws Plea of not Guilty and now PLEADS GUILTY to this Indictment. P.S.I. ordered. Sent. adjd. Sine Die. Bail continued - STEWART, J.

June 11-74 LOPEZ (atty present) Pleads GUILTY to this Indict. P.S.I. ordered. Sent. adjourned to 7/10/74 9:30 A.M. Bail continued - STEWART, J.

| DATE | PROCEEDINGS |
|-----------|---|
| 6-14-74 | ALBERTO LOPEZ - Filed CJA 21 Authorization of Gerardo Sanchez Ballate, interpreter, 717 W. 177th St., N.Y. - STEWART, J. (orig. filed AO Wash, D.C.) payment/ |
| 6-14-74 | Filed Copy of CJA 21 re: above Approving Authorization of interpreter. |
| 6-14-74 | Filed ALBERTO LOPEZ - CJA 21 Authorization of Interpreter Gerardo Sanchez Ballate, 717 N.Y. - STEWART, J. |
| 6-14-74 | ALBERTO LOPEZ - Filed copy of CJA 21 Authorizing Payment on the above |
| 6-20-74 | JAMIE MENDOZA - Filed Waiver of Constitutional Rights. |
| 6-19-74 | MENDOZA - (atty present) (Mitchell) withdraws Plea of Not guilty and Plead GUILTY to this P.S.I. ordered. Sentence adjourned to 8/22/74 10AM Bail continued - STEWART, J. |
| 6-26-74 | LOPEZ - (atty present) Application for reduction of bail granted. Bail \$15,000, P.R.B. secured by \$5,000 Cash. Bail limited extended to Jersey City, N.J. - STEWART, J. |
| 6-26-74 | BARO (atty present) withdraws plea of Not Guilty and Now Pleads GUILTY to the Indictment P.S.I. ordered. Sent. adjd. to 9/20/74 10AM Bail continued at \$150,000 P.R.B. |
| 6-27-74 | BARO - Filed Rights of Waiver of his constitutional rights. |
| 6-26-74 | LOPEZ - Filed CJA 21 Authorization of Gerardo Sanchez Ballate 717 W. 177th St., N.Y. Interpreter - STEWART, J. (original mailed AO Wash.D.C.) |
| 6-26-74 | LOPEZ Filed copy of CJA 21 approving payment re: above. |
| Jul- 1-74 | John Die, a/k/a Christian- Filed Warrent for Arrest Filed affit of James E. Nesland Filed affdvt. of Jorge Baro all 3 documents re extradition of defendant from Chile |
| 7-10-74 | ALBERTO LOPEZ- Filed JUDGMENT that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for a period of TEN (10) YEARS. Pursuant to provisions of T. 21, U.S. Code, Section 846, the defendant is placed on Special Parole for a period of THREE (3) YEARS to commence upon expiration of confinement. Defendant to be given credit for time served. -- Stewart, J. ----- copies issued. |
| 7-17-74 | PENARANDA - Application for Reduction of Bail - DENIED - STEWART, J. |
| 7-18-74 | Lopez Filed comm. [unclear], Deft delivered to [unclear] [unclear] [unclear] |
| 7-18-74 | LOPEZ - Filed CJA 21 Authorizing Gerardo Ballate, 717 W. 177th St. (Interpreter) AO Wash.D.C. STEWART, J. |
| 7-18-74 | LOPEZ - Filed copy CJA 21 approving payment re: above |
| 7-18-74 | Filed Transcript of record of proceedings, dated May 31, 1974 |
| Jul-29-74 | Filed Govt. Affidavit in opposition of deft's pending motion dismissing Indict. |
| 7/29/74 | Filed Government's Memorandum of Law in opposition to Deft's Motion to dismiss the Ind. |
| 8-26-74 | Filed Govt. Supplemental Bill of Particulars. |

D. C. 110 Rev. Civil Docket Continuation

| DATE | PROCEEDINGS | Date Order Judgment |
|-----------|--|---------------------|
| 8-15-74 | LOPEZ - Filed CJA 20 Copy 2 appointing Alvin Geller Counsel, - STEWART,J. (Original mailed to AO Wash.D.C.) | |
| 9-4-74 | Filed Govt's. Memorandum in support of Admissibility of Evidence of other contemporaneous narcotics transactions engaged in by Rafael Lira | |
| 9-10-74 | Deft. Lira's (Mellafe) application to have atty. Ivan Fisher removed as defts' counsel granted. | |
| 9-19-74 | Enrique Barrera - (Produced on writ) atty. present, Interpreter Gerard Sanchez sworn Gilbert Bornstein - Produced on writ) atty present, Interpreter Joelle McCall sworn Raphael Lira - (no atty.) Marie Cardenas interpreter sworn. All motions and writs adjd. to 9/25/74 at 10AM - STEWART,J. | |
| Sep.27-74 | Filed Affidavit of James E. Nesland in opposition to deft's motion for an order dismissing indictment upon the ground that the Court lacks jurisdiction | |
| Sep.27-74 | Filed Government's Memorandum of Law in opposition to Rafael Lira's Motion for dismissal of the Indictment of or a hearing thereon. | |
| 10-2-74 | Filed(LIRA)documents received from Mag. Raby -- Docket Entry Sheet; Indict. Warrant; Disposition Sheet; Appointments of Counsel. | |
| 10-2-74 | Filed (PENARADA) documents received from Mag. Raby -- Docket Entry Sheet;Indt. Warrant; Disposition Sheet; Appointments of Counsel | |
| 10-2-74 | Filed Govt. Supplemental Affidavit of James E. Nesland to bring the attention of this court the recent decision of Hon.J.B.Weinstein USDJ,E.D.N.Y. | |
| 10-9-74 | Filed BARRERA - Financial Affidavit | |
| 10-11-74 | Filed Govt. Affidavit in further support of Govt's. position that deft Lira's pending motion to dismiss indict.should in all respects be denied. | |
| 10-18-74 | Filed ORDER thwt the Warden of The Federal Detention Center at West Street, make available to counsel for purposes of said conference, on 10/19/74 the use of the regular counsel room at said Detention Center, and it is further ORDERED that Deft. Rafael Mellafe Campos does not speak or understand the English language that counsel may be accompanied by and have present as interpreter during said conference MARIA ELENA CARDENAS, the Court appointed interpreter for deft. in this case. STEWART,J. | |
| 10-17-74 | Lopez Filed commitment & entered return, Deft delivered to [unclear] 10-17-74 | |
| 10-21-74 | BORNSZTEIN - Filed CJA 21 Copy 2, Authorization of Mrs. Joelle McCall, interpreter, original mailed to AO Wash.D.C. for payment. - STEWART,J. | |
| 10-21-74 | BORNSZTEIN - Filed CJA 21 Copy 5 approving payment for interpreter. | |
| 10-21-74 | RAFAEL LIRA - Filed CJA 21 Copy 2, Authorizing Ms. Maria Caidenas, interpreter, original mailed AO.Wash.D.C. for payment - Stewart,J. | |
| 10-21-74 | RAFAEL LIRA - Filed CJA 21 Copy 5, approving payment of interpreter. | |

| DATE | PROCEEDINGS | Date Order Judgment |
|------------|--|---------------------|
| 10-3-74 | RAPHAEL MELLAFE - CAMPOS a/k/a LIRA - Motion argued. Dec. Reserved Trial set for | 10/15/74 |
| 10-15-74 | RAPHAEL LIRA - Counsel have agreed true name is Rafael Mellafe Jury trial begun before Stewart, J. Interpreter Maria Cardenas present | |
| 10-16-74 | Trial continued | |
| 10-17-74 | Trial continued | |
| 10-18-74 | Trial continued | |
| 10-21-74 | Trial continued | |
| 10-22-74 | Trial continued | |
| 10-23-74 | Trial continued | |
| 10-24-74 | Trial continued and concluded. Jury finds deft. GUILTY as charged Ct.1. P.S.I. ordered. No bail. Sentence adjourned to 11/21/74 at 9:30 - STEWART, J. | |
| 10-24-74 | Filed Affidavit of Larry S. Greenberg in support of the deft's application to dismiss indictment etc. | |
| Oct. 31-74 | Filed governments affdt. of James Nesland. Deft. LIRA | |
| Oct. 30-74 | Filed CJA 21 Copy 2/- Authorization of Maria Elena Cardenas, Interpreter, original mailed to AO Wash D. C. for payment. STEWART, J. Deft. LIRA | |
| Oct. 30-74 | Filed CJA 21 Copy 5 - Authorizing payment for expert services - STEWART, J. | |
| Oct. 30-74 | Filed CJA 21-Copy 2 Deft. LIRA- Authorization of Maria E. Cardenas Interpreter, original mailed to AO Wash.D.C. for payment - STEWART, J. | |
| Oct. 30-74 | Filed CJA 21 Copy 9 - Authorizing payment for expert services - STEWART, J. | |
| 11-6-74 | Secavia Filed Transcript of record of proceedings, dated 6-10-74 | |
| 11-6-74 | Lopez Filed Transcript of record of proceedings, dated 6-10-74 | |
| 11-6-74 | Lopez Filed Transcript of record of proceedings, dated 6-11-74 | |
| 11-6-74 | Mendoza Filed Transcript of record of proceedings, dated 6-19-74 | |
| 11-6-74 | Banco Filed Transcript of record of proceedings, dated 6-26-74 | |
| 11-6-74 | LIRA Filed Transcript of record of proceedings, dated 8-10-74 | |
| 11-6-74 | Filed Transcript of record of proceedings, dated 8-19-74 | |
| 11-12-74 | Lira Filed Transcript of record of proceedings, dated 23, 24, 1974 Oct 15, 16, 17, 18, 21, 22 | |

ONLY COPY AVAILABLE

| DATE | PROCEEDINGS |
|------------|--|
| 11-21-74 | RAFAEL MELLAPE - Indicted as RAFAEL LIRA - Sentence adjourned to 11/22/74, interpreter Maria Cardenas present - STEWART, J. |
| 11-21-74 | JOSE KENNETH PENARANDA, (atty present) Larry Greenberg. Hearing re: Toscanino matter held. Interpreter Edward Landrith present and sworn. Hearing concluded. Motion denied. Application for reduction of bail denied. - STEWART, J. |
| 11-22-74 | RAFAEL MELLAPE indicted as RAFAEL LIRE - Filed JUDGEMENT (atty present) The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of FIVE (5) YEARS, pursuant to Section 841 of Title 21, USC, defendant is placed on Special Parole for a period of THREE (3) YEARS, to commence upon expiration of confinement. STEWART, J. |
| 11-27-74 | RAFAEL LIRA - Filed Notice of Appeal to U.S.C.A. for 2nd Circuit from final judgment entered on 11/22/74 |
| 12-3-74 | CA Filed Transcript of record of proceedings, dated 10-8-74 |
| 11-8-74 | (received 12/4/74) LOPEZ - Filed Petition for Sentence Reduction or modification etc. |
| 12-4-74 | RAFAEL LIRA - Filed CJA 21 Authorizing Maria Elena Cardenas, 319 E. 93rd St., N.Y. original mailed to Wash. D.C., for payment - STEWART, J. |
| 12-4-74 | RAFAEL LIRA - Filed CJA 21 Authorizing Maria Elena Cardenas, Interpreter, 319 E. 93rd St., N.Y., original mailed to AO Wash. D.C. for payment - STEWART, J. |
| 12-5-74 | CP The Court Refers Ky-5-6-74 |
| 12-11-74 | LIRA - Filed Original record on appeal transmitted to U.S.C.A. 2nd Circuit. |
| 12-19-74 | LIRA - Filed commitment & entered return, Deft. delivered to US District Court, Lower Key Pa - 12-6-74 |
| 12-23-74 | LIRA - Filed Supplemental Record on appeal transmitted to U.S.C.A. for 2nd Circuit this date |
| Dec. 31-74 | JOSE K. PENARANDA --- Filed govts. supplemental affdt. of James Nesland in opposition to the motion of said deft. to dismiss indictment. |
| Dec. 31-74 | JOSE K. PENARANDA -- Filed defts. acknowledgment of his constitutional rights. |
| Dec. 31-74 | JOSE K. PENARANDA -- Filed stip. and order that the motion made by said deft. to dismiss, which motion was denied by Judge Stewart after an evidentiary hearing on Nov. 21, 1974 hereby enters a plea of guilty insofar as it charges deft. with violating Title 21 USC Sect. 846, specifically preserving for deft. all right of appeal from the decision of Judge Stewart denying said motion and further reserving to deft. the right to withdraw the plea of guilty entered herein, should the decision of J. Stewart denying said motion be reversed on any appeal thereof. |
| Dec. 31-74 | JOSE K. PENARANDA --- (atty. present, Larry Greenberg) (interpreter present) Deft. Withdraws NOT GUILTY PLEA and now pleads GUILTY to Title 21 846. Sentence adj. to Jan. 20, 1975 at 9:30am. No bail. Pre-Sentence Investigation ordered, Stewart, J. |

| DATE | PROCEEDINGS |
|----------|--|
| 1/7/75 | Filed Transcript of record of proceedings, dated 11/21/1974; 11/22/1974. |
| 01-23-75 | JOSE KENNETH PENARANDA--FILED JUDGMENT(atty. and interpreter present)--the deft. is hereby committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of TWO YEARS(2). Pursuant to the provisions of Title 21, Section 841, the deft. is placed on Special Parole for a period of THREE YEARS(3) to commence upon expiration of confinement, on Count 1. Defts. motion to dismiss allegations of Title 21, Sections 173, 174 and 963, there being no objections by the govt., the motion is granted. Stewart, J. (copies issued) The court orders commitment to the custody of the Atty. General and recommends that the deft. be committed to the penitentiary at Allenwood, Pa. |
| 01-24-75 | JOSE KENNETH PENARANDA -- Filed defts. notice of appeal to the USCA from the final judgment entered on January 23, 1975. (copy to U.S. Attys. Office and to deft. at Nassau County Jail, Mineola, NY) Leave granted to proceed in forma pauperis, Stewart, J. |
| 01-29-75 | JORGE BARO--FILED JUDGMENT(atty. Richard Wynn present)--the deft. is here committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of FIVE(5) YEARS. Pursuant to the provisions of Title 21, Section 841, the deft. is placed on Special Parole for a period of THREE(3) YEARS, to follow his confinement. Pursuant to Title 18, Section 4208(a)(2) of the U.S. Code the Board of Parole is permitted to consider the deft. for parole prior to his having served 1/3 of his sentence. Defts. motion to dismiss allegations as cited in Title 21, Sections, 173, 174 and 963 there being no objections by the govt., the motion is granted. Deft. directed to surrender to the U.S. Marshal, in Miami, Florida by Feb. 12, by the end of the regular business day to commence service service of sentence. Bail is contd. to date and time of surrender which is Feb. 12, 1975. The deft. serves his sentence at Eglin, the Federal Prison in Jacksonville, Florida, Stewart, J. (copies issued) |
| 01-17-75 | RAFAEL LIRA--Filed C.J.A. copy #2 appointing John C. Corbett of 66 Court St, Bklyn, NY 11201 as counsel for said deft. Original mailed to A.O., Washington D.C. for payment of the amt. of \$1,899.92. Stewart, J. |
| 01-17-75 | MANUEL LIRA--Filed C.J.A. Copy #5 appointing John Corbett as atty. for said deft. Stewart, J. |
| 02-06-75 | JORGE BARO--Filed defts. affdt. and notice of motion for an order reducing, vacating or suspending the execution of the sentence imposed etc., ret. on: Feb. 11, 1975 at 10am. |
| 02-06-75 | JORGE BARO--Filed defts. memorandum of law in support of above motion. |
| 02-10-75 | JOSE K. PENARANDA--Filed transcript of record of proceedings dated Nov. 21, 1975 |
| 02-10-75 | JOSE K. PENARANDA--Filed transcript of record of proceedings dated 12/31/75 |
| 02-10-75 | JOSE K. PENARANDA--Filed transcript of record of proceedings dated 1/23/75 |

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

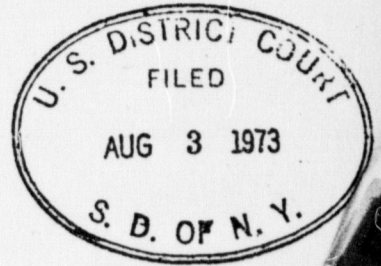
73 CRIM. 751

UNITED STATES OF AMERICA

-v-

JAMIE MENDOZA, JORGE SARAVIA,
JOSE KENNETH PENARANDA, JORGE BARO,
SERGIO MACHIN,
ALBERTO LOPEZ, a/k/a El Viejo,
ENRIQUE BARRERA, a/k/a Manolo,
MANUEL ABDO CHACON, a/k/a Manuel Garcia,
a/k/a Manolito,
GILBERT BORNSZTEJN, a/k/a El Gordo,
MILTON GRIJALVA, RAFAEL LIRA,
JOSE ALHAMBRA, a/k/a Pepe,
JOHN DOE, a/k/a Rolando,
JOHN DOE, a/k/a Christian, a/k/a El Flaco,
JOHN DOE, a/k/a El Chino,
JOHN DOE, a/k/a Gonzalez and
JOHN DOE, a/k/a Roberto,

Defendants.



INDICTMENT

73 Cr.

The Grand Jury charges:

1. From on or about the 1st day of July, 1970 and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York and elsewhere, JAMIE MENDOZA, JORGE SARAVIA, JOSE KENNETH PENARANDA, JORGE BARO, SERGIO MACHIN, ALBERTO LOPEZ, a/k/a El Viejo, ENRIQUE BARRERA, a/k/a Manolo, MANUEL ABDO CHACON, a/k/a Manuel Garcia, a/k/a Manolito, GILBERT BORNSZTEJN, a/k/a El Gordo, MILTON GRIJALVA, RAFAEL LIRA, JOSE ALHAMBRA, a/k/a Pepe JOHN DOE, a/k/a Rolando, JOHN DOE, a/k/a Christian, a/k/a El Flaco, JOHN DOE, a/k/a El Chino, JOHN DOE, a/k/a Gonzalez and JOHN DOE, a/k/a Roberto, the defendants and others to the Grand Jury known and unknown, unlawfully, intentionally

and knowingly combined, conspired, confederated and agreed together and with each other to violate prior to May 1, 1971, Sections 173 and 174 of Title 21, United States Code, and, on and after May 1, 1971, to violate Sections 812, 841(a)(1), 841(b)(1)(A), 951(a)(1) and 952 of Title 21, United States Code.

2. It was part of said conspiracy that prior to May 1, 1971 the said defendants unlawfully, wilfully, knowingly and fraudulently would import and bring into the United States large amounts of narcotic drugs from and through Ecuador, Peru and other countries to the Grand Jury unknown in violation of Sections 173 and 174 of Title 21, United States Code.

3. It was further a part of said conspiracy that prior to May 1, 1971 the said defendants unlawfully, wilfully and knowingly would receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a quantity of narcotic drugs, the exact amount and nature thereof being to the Grand Jury unknown, after the said narcotic drugs had been imported and brought into the United States contrary to law, knowing that the said narcotic drugs had been imported and brought into the United States contrary to law in violation of Sections 173 and 174 of Title 21, United States Code.

4. It was further a part of said conspiracy that on and after May 1, 1971 the said defendants unlawfully, wilfully and knowingly would import into the United States from place outside thereof, to wit, Ecuador,

Peru, Chile, and France, Schedule II narcotic drug controlled substances, the exact amount thereof being to the Grand Jury unknown in violation of Sections 812, 951(a)(1) and 952 of Title 21, United States Code.

5. It was further a part of said conspiracy that on and after May 1, 1971 the said defendants unlawfully, wilfully and knowingly would distribute and possess with intent to distribute Schedule II narcotic drug controlled substances, the exact amount thereof being to the Grand Jury unknown in violation of Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

6. Among the means by which the defendants would and did carry out the aforesaid conspiracy were the following:

(a) ENRIQUE BARRERA recruited JORGE SARAIVIA, JOSE KENNETH PENARANDA and JAMIE MENDOZA, all diplomats from BOLIVA serving in consular posts in New York and Miami to bring cocaine into the United States using their diplomatic passports to clear United States customs without being searched.

(b) The aforementioned Bolivian diplomats would travel to Ecuador, Peru, Chile and France to pick up cocaine, and did bring approximately 225 kilograms of cocaine in the United States during the period charged herein. Said Bolivian diplomats would meet with persons

designated by ENRIQUE BARRERA in said countries for the purpose of importing cocaine.

(c) Said diplomats met with defendants MANUEL ABDO CHACON, a/k/a Manuel Garcia, a/k/a Manolito, JOHN DOE, a/k/a El Chino, JOHN DOE, a/k/a Roberto and MILTON GRIJALVA in Guayaquil Ecuador; defendant JOSE ALHAMBRA, a/k/a Pepe, in Lima, Peru; defendants ALBERTO LOPEZ a/k/a El Viejo, JOHN DOE a/k/a Christian, a/k/a El Flaco and RAFAEL LIRA in Santiago Chile, and defendants JOHN DOE, a/k/a Gonzalez, JOHN DOE, a/k/a Rolando and GILBERT BORNSZTEJN in Paris, France.

OVERT ACTS

In pursuance of said conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York and elsewhere:

1. In or about October or November, 1970 defendants JORGE SARAVIDA, JORGE BARO and JAMIE MENDOZA left New York City for Guayaquil, Ecuador.
2. In or about October or November of 1970 defendants JORGE SARAVIDA, JORGE BARO and JAMIE MENDOZA delivered approximately 10 kilograms of cocaine to defendant ENRIQUE BARRERA in the vicinity of West 87th Street and West End Avenue, New York, New York.
3. In or about January, 1971 defendants JORGE BARO and JAMIE MENDOZA left New York City for Guayaquil, Ecuador.

4. In or about January, 1971 defendants JORGE BARO and JAMIE MENDOZA delivered approximately 10 kilograms of cocaine to defendant ENRIQUE BARRERA in the vicinity of West 87th Street and West End Avenue, New York, New York.

5. In or about December, 1970 or January, 1971 defendants JORGE BARO and JAMIE MENDOZA delivered 10 kilograms of cocaine to defendant ENRIQUE BARRERA in New York, New York.

6. In or about May, 1971 defendant JORGE BARO delivered 10 kilograms of cocaine to defendant SERGIO MACHIN in the vicinity of West 87th Street and West End Avenue, New York, New York.

7. In or about July, 1971 defendants JORGE BARO and JAMIE MENDOZA departed New York City for Paris, France.

8. In or about July, 1971 defendants JORGE BARO and JAMIE MENDOZA delivered approximately 50 kilograms of cocaine to defendant ENRIQUE BARRERA in the vicinity of 1st Avenue and East 69th Street, New York, New York.

9. In or about July or August, 1971 defendants JORGE BARO, JORGE SARAVIA and JOSE KENNETH PENARANDA arrived in Santiago, Chile.

10. In or about July or August, 1971 defendants JORGE BARO, JORGE SARAVIA, JOSE KENNETH PENARANDA, ALBERTO

LOPEZ, a/k/a El Viejo, JOHN DOE, a/k/a Christian, a/k/a, El Flaco, and RAFAEL LIRA met in Santiago, Chile.

11. In or about July or August, 1971 defendants JORGE BARO, JORGE SARAIVIA and JOSE KENNETH PENARANDA delivered 15 kilograms of cocaine to defendant ENRIQUE BARRERA in the vicinity of East 59th Street and First Avenue, New York, New York.

12. In or about September, 1971 defendant JORGE BARO departed New York City for Paris, France with \$200,000.

13. In or about September, 1971 defendants JORGE BARO, JORGE SARAIVIA and JOSE KENNETH PENARANDA delivered \$200,000 to defendant JOHN DOE, a/k/a Gonzalez in Paris, France.

14. On or about March 31, 1973 defendant ALBERTO LOPEZ, a/k/a El Viejo arrived at Howard Johnsons in Secaucus, New Jersey.

15. In or about April, 1973, defendant ALBERTO LOPEZ, a/k/a El Viejo, delivered \$35,000 to defendant JORGE BARO in Miami, Florida.

16. On or about June 3, 1973, defendant ALBERTO LOPEZ, a/k/a El Viejo, arrived at John F. Kennedy Airport in New York City.

17. On or about June 5th or 6th, 1973 defendant ALBERTO LOPEZ, a/k/a El Viejo, arrived in Miami, Florida with \$20,000.

United States District Court

SOUTHERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA

vs.

JAMIE MENDOZA, JORGE SARAVIA,
JOSE KENNETH PENARANDA, JORGE
BARO, SERGIO MACHIN,
ALBERTO LOPEZ, a/k/a El Viejo,
ENRIQUE BARRERA, a/k/a
Manolo, et al.,
Defendants.

INDICTMENT

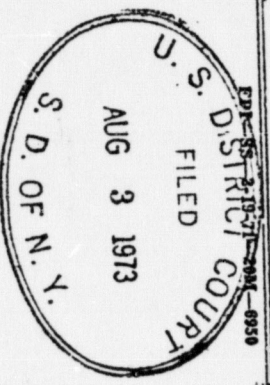
(21 USC §§ 173, 174,
846, 963)

PAUL J. CURRAN

United States Attorney.

A TRUE BILL

Foreman.



JUDGE STEWART

ONLY COPY AVAILABLE

Aug 28, 1973 Indictment ordered returned.

SEP 10 1973 All Defts Court directs entry of
Not Guilty plea. Case assigned to Judge
Stewart. Case referred to Judge Stewart from
Part I calendar.

JUN 10 1974 DEFT CHARGES UPDIKE (PRESENT) SARAVIA
WITHDRAWS PLEA OF NOT GUILTY AND NOW PLEADS
GUILTY TO THIS INDICTMENT. P.S.I. ORDERED. SENT.
ADTD SINE DIE. BAIL CONT'D.

JUN 11 1974 DEFT (ANY ALVIN GELZER PRESENT) LOPEZ
PLEADS GUILTY TO THIS INDICT. P.S.I. ORDERED.
SENT. ADTD TO 7-10-74 930AM BAIL CONTINUED
STEWART.

OVER

JUN 19 1974 DEFT (ATTY. ROBERT MITCHELL PRES) MENDOZA WITHDRAWS
PLEA OF NOT GUILTY AND NOW PLEADS GUILTY TO THIS INDICT.
P.S.I. ORDERED. SENT. ADJD TO 8-22-74 10AM, BAIL CONT'D

STEWART, J. [Signature]

JUN 26 1974 DEFT. (ATTY ALVIN GELLER PRESENT) LOPEZ - APPLICATION
FOR REDUCTION OF BAIL GRANTED. BAIL - \$15,000, P.R.B SECURE
BY \$5,000 CASH. BAIL LIMIT EXT. TO JERSEY CITY, N.J.

STEWART, J. [Signature]

JUN 26 1974 DEFT (ATTY RICHARD WYNN PRES) BARO - WITHDRAWS
PLEA OF NOT GUILTY AND NOW PLEADS GUILTY TO THE INDICT
P.S.I. ORDERED. SENT. ADJD TO 7-20-74, 10AM BAIL CONTINUED
AT 150,000 P.R.B.

STEWART, J. [Signature]

JUL 10 1974 DEFT (ATTY. ALVIN GELLER PRESENT) LOPEZ - SENTENCED TO
A PERIOD OF 10 YRS. SPECIAL PAROLE OF 3 YRS TO COMMENCE
UPON EXPIRATION OF CONFINEMENT

STEWART, J. [Signature]

JUL 17 1974 DEFT (ATTY LARRY ^{S.} GREENBERG) PENARANDA -
APPLICATION FOR REDUCTION OF BAIL. REDUCTION
OF BAIL DENIED

STEWART, J. [Signature]

JUL 17 1974 DEFT (ATTY LARRY^{S.} GREENBERG) PENARANDA -
APPLICATION FOR REDUCTION OF BAIL. REDUCTION
OF BAIL DENIED

STEWART J. *(Signature)*

SEP 10 1974 DEFT. LIRAS (MELLAFE) APPLICATION TO HAVE ATTY. IVAN FISHER
REMOVED AS DEFTS' COUNSEL GRANTED.

SEP 19 1974 *(Signature)* James E. NESLAND, AUSP.
Motions - *(Produced on Writ)*
Enrique Berrera, atty. Stewart Shaw, Esq. present.
Interpreter Harold Sanchez suan -

Gilbert Bornsstein, atty. *(Produced on Writ)*
Henry Baitel, Esq. present.
Interpreter Jaelle V. McCall suan -

Campes
Mellafe *M/R/L Lira*
Raphael ~~de~~ no atty. Maria Cardenas interpreter
suan - all motions and writs adj'd to 9/20/74
at 10 AM

STEWART, J.
(Signature)

1974 Raphael Mellafe - Campes *M/R/L Lira*
Motion argued. Dec. Res. Trial set for

OCT 15 1974

Rafael LIRA - Counsel have agreed true name
is RAFAEL Mellate-Compos.

~~Rafael Mellate~~

Jury trial began close before Stewart, J.
Interpreter Maria Cardenas - present.

OCT 16 1974 - trial cont'd

OCT 17 1974 - " "

OCT 18 1974 - " "

OCT 22 1974 - trial cont'd.

OCT 24 1974 -

trial cont'd.

OCT 25 1974 -

d OCT 24 1974 - " " + concluded. Jury finds deft. guilty
as charged (Ch. 1). PSI ordered. No bail. Sentence
adjourned to 11-21-74 at 9:30

NOV 21 1974 - Rafael Mellate - Indicted as
Rafael Lira
Sentence adjourned
Interpreter Maria Cardenas present to

Ch Stewart, J.

11-22-74.

Stewart, J.

NOV 21 1974 -

JOSE Kenneth PENARANDA, atty. present

NOV 21 1974 - ^{Rafael Melhafa - Indicted as Rafael Sira} Sentence. Adjourned
Interpreter Maria Condones present to 11-22-74.

Stewart, J.

NOV 21 1974 - JOSE Kenneth PENARANDA, atty. present
(Larry Greenberg, Esq.). Hearing re: forcanino matter
held. Interpreter Edward Landrith ~~sworn~~ present &
sworn. Hearing concluded ~~re~~ Motion denied.
application for reduction of bail - DENIED.

NOV 21 1974 Rafael Melhafa, indicted as Rafael Sira.
atty present. Sentenced 5 YRS. Deft. placed
on Special Parole for a period of 3 YRS.
to commence upon expiration of
confinement. Deft advised of his rights
to appeal.

DEC 21 1974 Jose Kenneth Penaranda, atty. Larry S. Greenberg, Esq.
present. Interpreter Edward Landrith sworn. Deft withdraws
Not guilty plea & now pleads Guilty to T.21 Sect. 846
So issue adj'd to Jan 20, 1975 at 9:30. No bail. Pre-
sentence investigation ordered.

Stewart, J.

INFORMAL OPINION
OF
DISTRICT COURT

9

THE COURT: I don't think I need him.

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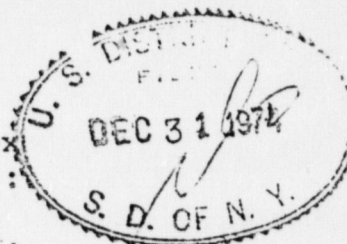
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On the basis of what I have heard so far, I am going to deny Mr. Greenberg's application subject to the affidavit that you are going to get from Mr. Brewin, is it, who is in Teheran.

4 THE COURT: Yes, I have reviewed the papers,
5 Mr. Nesland, and Mr. Brewin's affidavit. As I recall, I
6 denied Mr. Penaranda's motion subject to the receipt of
7 a satisfactory affidavit. I find this affidavit satisfactory,
8 and Mr. Penaranda's motion is denied.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA

-v-

JOSE KENNETH PENARANDA,
et al.,

Defendants.

STIPULATION

73 Cr. 751
(C.E.S.)

-----x

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by Paul J. Curran, United States Attorney for the Southern District of New York, James E. Nesland, Assistant United States Attorney, of Counsel, and the defendant, by Robert Kasanof, Legal Aid Society, Larry S. Greenberg, of Counsel, that defendant, having made a motion to dismiss, pursuant to Rule 12(b), Fed. R. Crim. P., claiming lack of valid jurisdiction over his person, which motion was denied by the Honorable Charles E. Stewart, Jr., United States District Judge, after an evidentiary hearing on November 21, 1974, hereby enters a plea of guilty to Indictment 73 Cr. 751, insofar as it charges defendant with violating Title 21, United States Code, Section 846, specifically preserving for defendant all right of appeal, secured by Rules 3 and 4, Fed. R. App. Proc., of the decision of Judge Stewart denying said motion and further reserving to defendant, upon consent of the United States of America, under Rule 32(d), Fed. R. Crim. P., the right to withdraw the plea of guilty entered herein, should

JEN:rs

the decision of Judge Stewart denying said motion be reversed on any appeal thereof.

Dated: New York, New York

December 31 1974

PAUL J. CURRAN
United States Attorney for the
Southern District of New York
Attorney for the United States
of America

By: *James E. Nesland*

JAMES E. NESLAND
Assistant United States Attorney

William S. Gallagher
~~ROBERT KASANOF~~
Legal Aid Society

By: *Larry S. Greenberg*

LARRY S. GREENBERG

Jose Kenneth Penaranda
JOSE KENNETH PENARANDA

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Penaranda-direct

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Would you tell the court what occurred to you on May 4, 1974?

A Yes. The 4th of May of the present year, around 5 o'clock in the afternoon I was at the house of my mother. At that time there arrived two young fellows.

Those fellows said that they needed me because there had been a man who had taken out a false check in my name and they asked me that I identify that man.

And then I asked them that they wait for a moment so that I could finish doing what I was doing at my mother's house. Then I said to my mother that I would be right back.

I went out with the two fellows, I invited them to my apartment and then I said to them that it seems strange to me that on Saturday, which is not a working day, there should be this problem. And then they changed and they said, no, Mr. Penaranda, it has to do with the fact that your son is under arrest. And then I said to them, where, and they said that he was in a section called San Pedro; that's a police section.

And then we went with those fellows and on arriving at that police section, they asked me to wait for a moment.

After a few minutes, more persons came in; there were about eight persons at that time. Among those there was one who asked me to get out of my car and I said to him "Why?"

2 Then he said to me that I was under arrest and
3 I said to him "Why?" And he should identify himself, who
4 was he.

5 And then he, in a violent manner, took the keys
6 out of my car and with another man who was stronger, they
7 took me out of the car and they put me in the back.

8 It was like that that they took me to another
9 section, which is in the center of the city. There I
10 waited for about five minutes. After those five minutes,
11 this man came back and he took me out of my own car with
12 the same eight people and he asked me to sit in the part
13 in back and then he asked me whether my glasses were made
14 to order and I said yes and then he said that he was going to
15 try them.

16 He took off my glasses and passed them to somebody
17 in front and upon doing that, somebody put on some dark
18 glasses, motorcycle glasses, and then he put a blanket on
19 me, covering me with a blanket and a raincoat on top of the
20 blanket and they made me get down on the floor of the car.

21 I felt that my car was going downhill and uphill
22 and it was going in various different directions and then,
23 according to what I heard, I felt that we were already
24 outside of the city. More or less after about half an hour's
25 driving they changed me at a stop to a Jeep, tied up like that,

1 like that, et cetera. Then we arrived at a certain place.
2 They made me get down from the seat and upon getting down
3 from the Jeep, since I was all tied up and masked with the
4 blanket that way, they took all of the things that I had
5 out of my pockets, a billfold, a watch, ring, even a handker-
6 chief, everything, everything.
7

8 And, with the belt that I had in my pants they took
9 that out and they tied my hands in back of me and they put
10 me in a room. In the room I asked "Where am I and why am I
11 here?" By way of answer, I received a blow in the stomach
12 and then I said to them, "You are thieves." And then they gave
13 me some other blows. On the fifth or sixth blow I fell down
14 faint. I lost consciousness completely.

15 I got up, I woke up -- it would have been about
16 3 or 4 o'clock in the morning -- out of pain and I yelled
17 and I asked for help but nobody paid any attention. This
18 was until Sunday at night and at night they returned again.

19 They opened the room and they asked me how had
20 I slept. And I said to them "Very well by virtue of the
21 blows that you gave me."

22 And I asked them that they take off the mask that
23 I had on because I felt that my eyes were swelling up and
24 then they took the mask up a little bit on my forehead
25 and then I asked them that they loosen my belt a little bit

because my arms were numb and I couldn't move them and I was in great pain.

"Very well." He said that for a certain time, they would be able to loosen my belt. Then I asked them for a little bit of water. "Don't worry, we are going to bring you food and water later on."

And then I asked them who were they and why did they have me there.

"Don't ask so many questions because if you do you are going to be beaten again."

Then I had to keep silent.

Then they put the mask back on and tightened my belt again with my hands behind my back and they left and I asked them whether they would leave a blanket with me because I felt that it was very cold. Then they said "Very well." A few minutes passed and somebody gave me a blanket.

On receiving the blanket I received some new blows as well. "This is for the food, this is for the water and this is so that you can sleep well."

I woke up in pain and I tried to find out where I was but nobody would answer me, nobody would say anything to me.

MR. GREENBERG: Excuse me, your Honor. May we just

1 interrupt this for a second? We submitted to the court
2 some documents which had been translated from Spanish into
3 English. Mrs. Seltzer, the interpreter who had translated
4 this, is here. I wonder if we could just swear her in for
5 the purpose of putting on the record the fact that she is
6 a court interpreter and that she translated the documents
7 from Spanish into English, the documents which were
8 submitted to the court.
9

10 (Norma Seltzer sworn and stated that she faith-
11 fully and accurately interpreted the documents as indicated.)

12 BY MR. GREENBERG:

13 Q Would you continue?

14 A Very well.

15 I continued in that way until Monday. Monday night
16 they returned to visit me. Then they brought me some metal
17 handcuffs like the ones that are used up here and then they
18 began to take off the mask, this mask that I had on but
19 on the condition that I not approach for any reason the door.

20 I asked about my mother, my wife and my son
21 and they said that I shouldn't worry because everything
22 would be taken care of. This was until Thursday.

23 Then, on Thursday, they came at night and the
24 same man entered. By the light of the doorway I could see
25 him. He was well dressed and perfumed. I was impressed

2 by the fact that he was dressed in black because I thought
3 that something had happened to my mother and then, in des-
4 peration, I grabbed him by his jacket and I asked him "What
5 has happened to my mother?"

6 And then the five men who were outside grabbed
7 me again and started to beat me and he said to them, "Leave
8 him alone, don't touch him any more."

9 "Don't worry, your mother is all right, your wife
10 is all right and also your son. Your problem is also
11 resolved and now you are going home."

12 "Very well."

13 And then they took me out like that; it was at night.
14 Yes. They put the mask on me again for my eyes, and the
15 blanket. We drove around again in the Jeep for more or less
16 20 minutes or half an hour. They stopped at one of those
17 places; they made me get out of the Jeep and they put me
18 in another vehicle and when that vehicle started up it
19 wasn't on a gravel road or a dirt road but on a paved road.

20 As I was getting closer and as I heard more, I
21 noticed that I was hearing airplane noises. Once the vehicle
22 stopped. They took the blanket and the face mask off of me
23 and then I was able to see the same agent who arrested me,
24 a Bolivian man in the cab of the car and an American at
25 his right-hand side and then I said to them could they
give me a cigarette and then they said to me, "We won't give

1 you anything because we are of a very hard heart, in
2 addition to which, you stink" and I then said to them "How
3 could I be otherwise since I have been six days and five
4 nights without water and in punishment?"

5
6 And then I kept silent and I observed some lights
7 which were lit for a landing and it struck me that all
8 around me there were men with machine guns and then I thought
9 and I said to myself, "Surely they must think I am Al
10 Capone."

11 Then, the American agent said that I could go
12 to the bathroom and I said that I had no need to but he made
13 me get down and do what he asked me to do.

14 Returning to the vehicle, a Braniff plane arrived.
15 My desperation was great, thinking about my mother, my wife
16 and my son and then I noticed that the Bolivian agent was
17 going through the process of getting the ticket and I
18 noticed that there was some problem. Those problems taken
19 care of, the vehicle approached the ramp of the airplane.
20 Then they took me out and they put me aboard the plane
21 and I asked the people that they let me see for the last time
22 my country and he said to me, "What are you going to see?
23 You don't have any glasses on" and I said to him that they
24 stole even them.

25 I entered the Braniff plane in first class and

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Penaranda-direct

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they put me in a seat in back, along with the Bolivian agent and the American.

Then the American agent gave me my glasses and we began the flight. The flight was to Lima, passing through Lima, we continued to this city.

Q Now, Mr. Penaranda, while you were in Bolivia, did you see your family at all?

A (In English) No. Absolutely nobody.

Q While you were in Bolivia, did anyone inform you why you were in custody?

A Nobody.

Q Did you ever see any documents while you were in custody, informing you why you were under arrest?

A No document whatever. I spent those days locked in that room.

Q Did you ever see any Americans during those days?

A In those days I didn't see any American.

Q Did you have a chance to see a lawyer while you were in custody?

A In no way.

Q When you were at the airport in Bolivia, did you see any documents at that time?

A Absolutely nothing.

Q When was the first time you were told why you were

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Penaranda-direct

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in custody?

A When I was already here in New York.

Q Who obtained the ticket for you for the flight to New York?

A I think it must have been the Bolivian agent because I was in the vehicle in the custody of the American agent.

Q When you flew from La Paz to Lima to New York who accompanied you?

A A Bolivian agent accompanied me and an American agent.

Q When you arrived in New York were you given to two other agents?

A In arrival in New York I encountered two more agents.

Q While in Bolivia, did you ever see an order with your name on it, any government papers with your name on it?

A Nothing, absolutely.

Q Did you ever go before a court in Bolivia?

A No court, no tribunal.

Q Did the police officers or whoever arrested you in Bolivia ever identify themselves to you?

A They didn't want to. I asked them to because the law is that, that they should say who is arresting.

Q Now, Mr. Penaranda, did they wear uniforms?

A No. They were dressed as civilians.

Q When you were brought in the plane, you were handcuffed the whole time?

A The whole trip. At one moment on the trip, between Lima and New York, I asked the agent to let me go to the bathroom so that I could shave and the agent said to me that I should wait until the other passengers fell asleep.

One they fell asleep he accompanied me to the toilet. He took off my handcuffs for that moment and then he put them on me again until we arrived in New York.

MR. GREENBERG: I have no further questions.

CROSS EXAMINATION

BY MR. NESLAND:

Q The arresting officer at your house you recognized at the time you went to the airport or at your mother's house, that is?

A No. The ones who came to my house were two young fellows. They were the ones who deceived me.

Q The one that you recognized when you were going to the airport?

A The Bolivian agent.

Q Which one was he? The one that came on the plane with you?

